DIVISIONAL FOREST OFFICE
SOUTHERN CIRCLE.
WORKING PLANS PARTY II.

LAND ACQUISITION.

PART I.—GENERAL PRINCIPLES AND PROCEDURE.

1. Whenever land is required to be taken for any public purpose, the Resolution to that effect should be communicated to the Revenue Department, for the issue of the necessary notification and subsidiary orders to the Collectors. (G. R. No. 4042, dated 17th September 1861.)

2. All orders to the Collectors for acquiring land should be issued from the Revenue Department. (G. R. No. 162, dated 15th January 1872.)

3. In order that the revenue interests of Government should not suffer, the Department of Government which exists for the supervision of all revenue matters should issue whatever orders were necessary for the acquisition of land. (G. R. No. 439, dated 31st January 1872.)

4. Applications to take up land under the Land Acquisition Act should invariably be forwarded to Government by Collectors in the Presidency proper through the Commissioners. (G. L. No. 2394, dated 7th June 1865.)

5. The Collector of Bombay should invariably report, in all cases in which he applies for payment of compensation for lands acquired for public purposes, whether he made any attempt to purchase the land by private contract, and if so, give briefly an account of his negotiations, stating what he may have offered, and the reasons why the negotiation failed. (G. R. No. 1536, dated 22nd April 1864.)

6. Even when a specific portion of land *must* be had for public purposes, the compulsory process under the Land Acquisition Act should not, unless under peculiar circumstances, be resorted to until efforts have been made to obtain the land by private purchase. (G. R. No. 957, dated 11th March 1868.)

7. The Commissioners in submitting draft notifications regarding lands required for public purposes should give a detailed description of the land proposed to be acquired, and should also state whether the land cannot be obtained by private contract, the probable area that will be resumed under the notification and the probable amount of the purchase money; and also from what funds the cost of the land will be defrayed and whether the required budget provision has been made. (G. R. No. 2302, dated 19th June 1867.)

8. When land is to be taken up under the Land Acquisition Act, the Collectors will, in submitting draft notifications for publication in the *Government Gazette*, in all possible cases mention the survey numbers of lands of which the whole or any portion is required. (G. L. No. 72, dated 6th January 1872.)

9. When land has to be taken up for public purposes either by private arrangements or under the Land Acquisition Act, the Collector or other officer or department requiring it should invariably report the probable amount of compensation which will have to be paid for it, and the source from which it is proposed to meet the charge, and that the draft notification to be published under the Act should be prepared in strict accordance, as far as possible, with the form of declaration given in Appendix B to the rules prescribed under the Act. (G. R. No. 615, dated 24th January 1883.)

10. There is no question that the notification under Section 4 of the Land Acquisition Act may describe the locality in which land is likely to be needed in the most general terms, but if it is to be described by enumeration of villages, it seems advisable that the list of villages should be complete in order that difficulty may not arise in case of a prosecution under Section 52* or even on action being taken under Section 4, because, if certain villages are named, it will be inferred by the Courts that the notification does not extend to others which are not named. (G. R. No. 8880, dated 11th November 1884.)

* *Vide* Section 46 of Act I of 1894.

11. Representations have been frequently made regarding the great enhancement of the price charged for land as soon as it is known to be required for railways or other public works. It is, therefore, suggested that in certain cases arrangements should be made between the officers of the Public Works or Railway Departments and the local Civil authorities to determine, without divulging the intentions of the Railway Companies or of the Government, what land to take up, so as to admit of a private bargain being made, before any enhancement of prices has occurred. For the future, it will be desirable to avoid alienating or granting long leases of land owned by Government near railway stations, or at other places where it is likely to become valuable, or to be required for the purposes of the State. (G. I., P. W. D., No. 113, dated 16th December 1867; *vide* G. R. No. 140, dated 14th January 1888.)

12. (1) There are only two courses open to officers of the Public Works Department in respect to the taking up of land. Either the consent of the proprietor must be obtained by negotiation, or the assistance of the Collector secured in accordance with the provisions of the Land Acquisition Act.

(2). Any officer of the Public Works Department who unauthorizedly occupies land will do so at his own risk.

(3). In regard to land required for furnishing material for the repairs of existing roads, it is desirable that the Executive Engineers in the several districts point out to the Collectors the precise localities at which they propose to obtain the material; and the Collectors will then endeavour either to purchase

the land or to rent it in perpetuity. Executive Engineers can, of course, if they prefer to do so, make their own arrangements with the proprietors.

(G. R. No. 2388, dated 18th May 1871.)

13. (1) If promptitude were exhibited in settling for lands required for public purposes, before the normal position of the local market becomes disturbed by the commencement of the work, large sums might be saved to the State; and it has been suggested that district officers, as soon as the general line of a work is fixed, and before ground is broken, should be authorized in rural districts to settle then and there with the proprietors of all villages whose lands will be traversed by the work, the rate of compensation per acre, both cash and remission of revenue, to be paid for each locally well-established class of soil, for any lands that may, when the work is taken in hand, be appropriated for its purposes. Special compensation for trees, wells, or houses would still remain for careful adjustment subsequently, but even in that case the greatest promptitude should be exercised in settling all claims before the people acquire an exaggerated notion of the value of their property.

(2). To enable district officers to deal at once with the compensation for land, it may be possible for the Local Government to lay down some rules, enabling them to settle the matter satisfactorily and at once without further reference to higher authority; at any rate, steps should be taken to facilitate the speedy settlement of claims, and to secure Government against the heavy charges for compensation which are sometimes to be met even without resort to the provisions of the Act.

(G. I., R., A. & C., No. 1-624, dated 30th July 1874; *vide* G. R. No. 4339, dated 13th August 1874.)

14. Officers of the Public Works Department should not enter on and use lands until they have been formally made over by the Revenue Department. (G. R. No. 1056, dated 22nd February 1873; and G. R., P. W. D., No. 79A-487, dated 4th March 1873.)

15. Officers of the Irrigation Department should exercise great care in estimating for land required to be taken up for canals or other irrigation works. In all such cases the district authorities should be consulted before estimates are framed, and the statements of those officers as to the value of the land should invariably accompany the estimates when submitted for sanction. (G. I., P. W. D., No. 4, dated 6th January 1872; *vide* G. R. No. 440, dated 31st idem.)

16. In every case in which the Land Acquisition Act may have to be put in force, the utmost consideration, consistent with fairness to both sides, should be shown to the wishes and feelings of people who have to suffer for the public good. (G. R., G. D.,

No. 2610, dated 2nd July 1872; *vide* G. M. No. 3525, dated 20th idem.)

17. When it is contemplated to undertake an extensive work, the best plan will be to depute an officer of the grade of an Assistant or Deputy Collector specially to settle the compensation to be paid for the land required to be taken up. (G. R. No. 4339, dated 13th August 1874.)

18. (1) When Deputy Collectors already in the service of Government are specially engaged for a prolonged period in the acquisition of land required by the Public Works Department for a large project, their pay and establishment charges may, if considered desirable by the Civil Department of the Local Government, be treated as a portion of the cost of acquiring the land, and as an item of expenditure on the project for which the land has been acquired. But to admit of a proper and careful control being exercised over the charges, as well as to limit the period of the employment of the establishment, when the estimates for a project are submitted for the sanction of the Government of India it may invariably be noted in the estimate for land what the actual cost of the land will amount to, distinct from the establishment and other charges attendant on the acquisition of the land, and debitable to that head.

(2). With the estimate a separate schedule should be submitted, showing the establishment required for taking up land and the probable cost of such establishment. The amount of this schedule should be the limit for the guidance of the Controller in his audit of charges for establishment for land, any excess being dealt with under the rules relating to excess outlay.

(3). It should be understood that these rules apply only to the case of establishments specially employed for, and sanctioned as chargeable to the Public Works Department, and not to ordinary cases of civil establishment employed in taking up land as a portion of their regular duties, in which case the cost of the establishment is adjusted as a charge of the Civil Department.

(G. I., P. W. D., No. 67, dated 11th November 1873; *vide* G. R., P. W. D., No. 44A-I-93, dated 25th February 1874, and G. M. No. 1391, dated 17th March 1874.)

19. If the Public Works Department cannot obtain land for stone or murum by private negotiation, the assistance of the Collector should always be applied for. (G. R. No. 709, dated 2nd February 1881, and G. R., P. W. D., No. 100 C. W.-321, dated 15th March 1881.)

20. Redemption of land tax by private individuals is not permissible. Where land is taken up under the Land Acquisition Act for a Municipality or a Company, such Municipality or Company should be held liable for the revenue, but might be

allowed to compound for it. (G. I., R., A. & C., No. 896, dated 9th December 1876, and G. I., H., R. & A., No. 446, dated 12th September 1879; *vide* G. Rs. Nos. 7432, dated 18th December 1876, 6650, dated 12th December 1879, 1860, dated 29th February 1884, 4390, dated 2nd June 1884, and 2958, dated 19th April 1886.)

21. In all cases of purchases of immoveable property on behalf of Government, a deed of sale should be executed by the vendor. In all ordinary cases this deed may be a very simple one, and the following form is approved :—

This deed of sale made the day of 18 between *A. B.* of and the Secretary of State for India in Council.

In consideration of Rupees paid to *A. B.* by the Collector of on behalf of the said Secretary of State for India in Council, the receipt whereof the said *A. B.* hereby acknowledges, the said *A. B.* hereby grants unto the Secretary of State for India in Council the property herein below described (namely): (*here describe the property as provided in the Indian Registration Act, Section 21.*)

In witness whereof the said *A. B.* has signed this deed.

(Signed) *A. B.*

Signed by *A. B.*
in the presence of

(G. Rs. Nos. 1481, dated 22nd March, and 2535, dated 17th May 1878.)

22. In cases of lands taken up by Government by private negotiation without money payment, the Collector merely remitting the amount of assessment placed on the land, no formal deed of relinquishment is necessary. The old form of rájináma hitherto in use would be quite sufficient. The rájináma and the consequent entries in the survey papers would be sufficient evidence. (G. R. No. 2535, dated 17th May 1878.)

23. (1) There is reason to fear that the adoption of an invariable rule that all payments of awards in land acquisition cases should be made by means of cheques, might in some instances be productive of inconvenience. When the property taken up by Government is near a treasury, the system of payment by cheques may be as convenient as payments in cash by the Land Acquisition Officer. But where the property is situated at a distance from a treasury, and when the Land Acquisition Officer pays the compensation at or near the village in which the owners reside, a course which is enjoined in paragraph 9 of the Resolution of the Government of India, No. 1580, dated 29th June 1886, the making of payments by means of cheques would probably be inconvenient to the payees, and the advantage of making final payments on the spot would be lost. The Governor General in Council is therefore not

prepared to direct that all payments shall be made by cheque. There is, however, no objection to a Local Government directing any particular Land Acquisition Officer to make all his payments by cheque if it appears that this practice will not cause inconvenience of the kind above referred to.

(2). The following rules proposed by the Government of Bengal in order to safe-guard the use of cheques are approved:—

(i) Every cheque-book should contain a certain number of cheques, with consecutive printed numbers, and each book should contain its own serial number.

(ii) The serial number of the cheque-book, and the number of cheques it contains, should be reported to the Treasury Officer before the book is brought into use.

(iii) The cheque-book should be kept under lock and key by the Land Acquisition Officer himself.

(iv) The cheques should be filled up by the Land Acquisition Officer, with his own hand, in words as well as figures, and cheques should be enfaced under Rs.

(v) A periodical examination of pass-books from the treasury with the counterfoils of the cheque-book should be made by the Land Acquisition Officer himself.

These rules should be observed by all officers paying compensation for land who draw money from the treasury by cheque, whether in lump sums to be distributed to the payees in cash by the officer, or in detail, each cheque being payable to one of the persons to whom compensation is due.

(G. I., F. & C., No. 2506, dated 14th August 1886; *vide* G. R. No. 6596, dated 17th September 1886.)

24. Rules 5 and 6 of the rules prescribed by the Government of India in their Resolution No. 1580,* dated 29th June 1886 (Government Resolution No. 5518, dated 4th August 1886), regulating the procedure to be observed in bringing to account payments of compensation for land taken up under the Land Acquisition Act, may be observed in the cases of lands acquired by private negotiations outside the Act. (G. R. No. 8762, dated 13th December 1886.)

*Superseded by the Resolution of the Government of India, No. 2209A, dated 10th May 1895. (G. R. No. 4320, dated 10th June 1895.)

25. (1) As regards the question of the debit of cost of temporary subordinate establishment specially engaged in connection with land acquisition, to work under officers of the Revenue Department, not placed at the disposal of the Public Works Department, the Government of India have ruled that in the cases provided for in the Civil Account Code, Rule 5, Chapter VI, *i.e.*, when the Civil Officer is made a Public Works disburser, there is no objection to any special establishment entertained by him (under orders of Government) being charged to the works concerned. But if he is not a Public Works disburser, then the charges should be brought to

account in the Civil Department and should not be debited to the Public Works Department.

(2). The duty of taking up land for Government purposes is a duty which rests upon the Revenue Department, and this duty and the cost of temporary establishments connected with it is borne as part of the cost of the Collector's establishments. In special cases when the operations are enough to keep a Deputy Collector and his establishment in full occupation, it is permissible to place this officer at the disposal of the Public Works Department and to deal with him as a Public Works disburser. In this case the expenditure incurred is audited, controlled and charged under Public Works rules. The assignment made under the Provincial Contract includes consideration of all charges for Collector's establishments, and therefore includes all charges which, by the rules of account, have to be taken against that head. General branches of the Public Service are not permitted to charge each other for services rendered, and the Revenue Department may not charge the Public Works Department in respect of its services in taking up land for Public Works.

(G. I., P. W. D., Nos. 207-I, dated 29th November 1887, and 190-I, dated 24th October 1888; *vide* G. R. No. 2508, dated 30th March 1889.)

26. (1) No land whether

(i) within cantonment limits,

(ii) forming part of a military encamping ground, or

(iii) otherwise held for military purposes,

shall be entered upon or occupied for constructing a railway, erecting railway or other buildings, or for any other purpose whatever, either by contractors or any other persons (official or non-official) acting under the orders of any Civil Department of the State, until the sanction of the Government of India in the Military Department to the occupation or use of the land has first been obtained and communicated to the General Officer commanding the district by the Quarter-Master General in India, or by the Quarter-Master General of the Madras or Bombay Army, as the case may be.

(2) This Resolution does not, however, in any way affect the powers at present exercised by the General Officers commanding districts in the Bengal and Bombay Presidencies, and by the Commander-in-Chief in the Madras Presidency, in sanctioning the grant of sites for ordinary building or other private purposes in cantonments, in accordance with the procedure laid down in Army Regulations, India, Vol. II, Part II. (G. I., M. D., No. 2407-M.W., dated 22nd August 1892; *vide* G. R. No. 1978, dated 16th March 1893.)*

* *Vide* also Rule 37 of the Rules accompanying Government of India Circular No. VI, dated 7th July 1892; G. R. No. 8379, dated 25th October 1892.

27. As regards officers or other officials serving under the orders of the Government of India, the above rules should be regarded as applicable to fixed encamping grounds selected for troops on the march within the limits of Native States, as shown in the routes published in the Quarter Master General's Department, but it depends upon the conditions under which a site was originally occupied and on the terms on which it is held, whether the rules can or cannot be regarded as applicable against Darbárs and Darbár officials. (G. I., M. D., No. 3104-M. W., dated 19th September 1893; *vide* G. Rs. Nos. 7788, dated 24th October 1893, and 6582, dated 17th September 1893.)

28. (1) The Land Acquisition Act X of 1870 having been repealed by Act I of 1894, which came into force from 1st March 1894, His Excellency the Governor in Council desires to invite the attention of officers who may be concerned in the acquisition of land for public purposes to the necessity for care in conforming their procedure to the terms and requirements of the new Act, more particularly in regard to the points noted below :—

(i) Claims to easements on, as well as to interests in the property to be acquired must now be considered.

Section 3, Clause (*b*).

(ii) Land may now be taken up when required for village sites subject to the condition that it is the custom of the district for Government to provide land for the purpose. Proposals to take up land under this provision should be accompanied by a report showing that the condition is fulfilled, with a view to the issue of the necessary notification.

Section 3, Clause (*f*).

(iii) Claims to represent minors and other persons unable to act for themselves must now be scrutinized with reference to the proviso to the definition of "Persons entitled to act."

Section 3, Clause (*g*).

(iv) In this section the words "or other Chief Revenue Officer of the district" have been added to indicate that disputes as to damages on entry are to be decided by the Collector of the district, not by any officer specially appointed to perform the functions of the Collector under the Act.

Section 5.

(v) The addition of the words "wholly or partly" before the words "out of public revenues" makes it permissible to apply the Act to the acquisition of land for suitable objects at the joint cost of public revenues or the funds of local authorities and of private benefactors, as well as when the whole cost is to be defrayed from public revenues or the funds of local authorities.

Section 6 (proviso).

(vi) The correctness of the measurements made under Section 8, and the apportionment of the compensation among the persons interested, are now added to the matters to be dealt with in the Collector's award. His enquiry is no longer to be summary, and authority is given to require statements of claims to be made in writing. Except as is noted further on, his award is now made final, and immediate notice of it must be given to any claimant not present when it is made. Having regard to the greater formality of the enquiry and the possible finality of the award it will probably be found advisable to require statements of claims to be made in or reduced to writing in all cases in future.

Section 9, Clause (2), and Sections 10 to 15.

(vii) Certain conditions are laid down which must be carefully attended to when service of notices by post may be necessary.

Section 9, Clause (4) and Section 45.

(viii) Not less than 15 days' notice must now be allowed when any person is called upon to furnish a statement of other persons interested in the land to be acquired.

Section 10.

(ix) Provision is made for immediate appropriation of land acquired for Railway purposes in certain emergencies, without waiting for the expiration of 15 days from publication of the notice mentioned in Section 9, Sub-section (1), subject, however, to reasonable notice to occupants of buildings who may be required to vacate, and compensation must be offered in all cases in which possession is taken in anticipation of the award, for damages arising from sudden dispossession and not excluded by Section 24, as well as for standing crops and trees.

Section 17, Clause 2.

(x) No reference to the Civil Court need now be made except on written application, made within the time laid down, from a person who has not accepted the award, failing which the award becomes final. It is, however, open to the Collector to refer disputes as to apportionment to the Court for settlement.

Sections 18 and 30.

(xi) When a reference is made, care must be taken to comply with the provisions of Section 19, as to the information to be supplied, among which attention may be drawn to those mentioned in Clause (2) as to particulars of all notices served upon and statements in writing made or delivered by the parties.

Section 19.

(xii) The phrase "market value" remains undefined, but may be taken to mean the price which the owner might be expected to obtain for his property with full opportunities of time and occasion,

Sections 15, 23 and 24.

such as might be held to be reasonable under all the circumstances of the case. The new Act differs from the old in that it requires the compensation to be fixed with reference to the market value of the land, at the date of the declaration, instead of at the date of the award, and consequently the consideration of a new item, to wit, (sixthly) the damage (if any) *bonâ fide* arising from any diminution in the profits of occupation during the period between the declaration and the Collector's entry into possession. Item "secondly" under Section 23 must apparently be read subject to the condition that compensation for standing crops and trees has not already been paid separately under Section 17 (3).

Section 24.

(xiii) In item (seventhly) a provision excluding from consideration any outlay on, or improvement or disposal of, the land *without the sanction of the Collector* after publication of the declaration under Section 6, is substituted for the somewhat vague provision in the former Act, excluding outlay or improvements commenced or effected with the intention of enhancing the compensation.

Sections 27 and 28.

(xiv) The Court has now a discretion in awarding costs which may be used as a check on extravagant or speculative claims or negligence in making or stating them. On the other hand the effect of Section 28 must be borne in mind. By making unduly low awards, the Collector may now render himself liable to pay interest on any excess amount awarded by the Court, as well as the costs of the reference.

Sections 31, 32 and 33.

(xv) To save accrual of claims for interest the amount of the Collector's award must now be deposited in Court when for any reason there is no person able and willing to receive it; and provision is made for receipt by any person interested of the sum awarded, without prejudice, if it be received under protest as to its amount, to the right of the recipient to demand a reference or to the right of other persons interested to recover from him, and for investment of the amount in certain cases when it has been deposited in Court. A discretionary power, subject to the sanction of Government, of settling otherwise than by a money payment with persons having a limited interest in the land even when it is taken up under the Act, is also reserved.

Sections 43 and 44.

(xvi) The new Act makes it clear that land taken up for Railway Companies for which under contract with the Secretary of State Government is expressly bound to provide land, is to be treated as taken up on behalf of Government, and not under the provisions relating to the acquisition of land for Companies.

(xvii) The taking of possession is now the stage of the proceedings up to which it remains open to Government to withdraw from the acquisition instead of the making of an award or reference as under the old Act. Section 48.

(xviii) In cases of severance, it is now open to the owner of any building, &c., who may have expressed a desire that the whole should be taken up, to withdraw or modify his demand at any time before an award has been made, and to Government to acquire the whole, in cases in which extravagant claims to compensation for severance are set up. Section 49.

(xix) Local authorities of Companies at whose cost any land may be taken up under the Act are now entitled to be heard and to adduce evidence for the purpose of determining the amount of compensation, but cannot demand a reference. Section 50.

(2). It is necessary also to bear in mind that the rules and instructions under the Land Acquisition Act of 1870 printed in the compilation of rules in force in the Revenue Department have not and never had the force of law, and are not therefore saved by Section 2, clause (2). They may still be used as a general guide, but care must be taken to follow them no further than may be strictly consistent with the provisions of the new Act, and instructions should be applied for in regard to any new questions that may arise.

(G. R. No. 6188, dated 23rd July 1894.)

29. (1) In schedules appended to notifications under Section 6 of the Land Acquisition Act,* columns such as "Tenure," "Name of Khátedár and Claimant" and "Boundaries" need not be inserted, as they are not required by law, and errata are likely to occur. * I of 1894.

(2) A declaration under Section 6 need show nothing beyond

(*a*) the district or other territorial division in which the land is situate;

(*b*) the purpose for which it is needed;

(*c*) its approximate area, and

(*d*) when a plan shall have been made of the land, the place where such plan may be inspected.

(L. R. No. 71, dated 16th January 1895; G. R. No. 1337, dated 16th February 1895.)

30. In Bombay the "boundaries" may be stated in the notification, but it seems undesirable to state the tenure. In Bombay, where there are so many different classes of tenures, mistakes are more likely to occur than elsewhere, and as any scrap of evidence of title is eagerly seized on, unfounded claims might be based on such mistakes. The chance of such mistakes should be avoided where there is no need to incur it. (G. R. No. 5731, dated 29th July 1895.)

31. (1). On the Land Acquisition Act, X of 1870, having been amended as Act I of 1894, the following rules regarding the payment of compensation for land taken up for public purposes under the Act, were substituted for those previously published.

Land Acquisition Officers.

(2). After all preliminaries in respect to estimate, &c., that may be required under departmental rules in force for the time being have been duly carried out, the land will be taken up under the Act either by the Collector or by some special officer who is placed at the disposal of the Public Works Department, and invested with the powers of a Collector under the Act; the procedure differs in the two cases.

Procedure of Special Officers appointed under the Act.

(3). Officers who are specially employed for this work, being invested with the powers of a Collector under the Act and placed at the disposal of the Public Works Department, are regarded as Public Works disbursers, and are supplied with funds in the manner prescribed in Article 467 of the Civil Account Code. The following procedure shall be observed by such officers.

(4). When an award is made under Section 11 of the Act, the officer shall have a statement prepared in the appended form (marked* A) showing the amounts payable to each person under the award, and shall, on the day the award is made, forward a copy of the statement, signed by himself, to the Examiner of Public Works Accounts with whom he is in account. Before signing the copy, the officer should carefully satisfy himself that it correctly shows the amounts due under the award, and should himself enter the total of column 6 of the statement in words both in the original and copy. A subsidiary statement in Form* AA giving particulars regarding the acceptance, by the persons concerned, of the amounts entered in column 6 of the award statement should also be furnished to the Examiner as soon as possible. If the subsidiary statement is not complete on the day that the award is made, the necessary entries in column 7 of statement A will be made in the Examiner's office on receipt of the statement in Form AA.

(5). In cases where an award has been made by a Court under Section 26 of the Act, a second award statement should be prepared in the accompanying form (marked *B) by the Land Acquisition Officer as soon as the decision of the Court is ascertained, and a copy thereof forwarded to the Examiner of Public Works Accounts. On receipt of this statement, the Examiner will proceed to check the entries in columns 1 to 4 with the original award by the officer.

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* Not printed.

(6). Any change in the apportionment of the officer's award made by a Court under Section 30 of the Act, should also similarly be communicated to the Examiner for the necessary corrections in the award statement. And if under Section 31 (*3*) of the Act, it has been arranged to grant a compensation otherwise than in cash, the nature of such compensation should be clearly specified in the column of remarks in the award statement.

(7). In giving notice of the award under Section 12 (2) and tendering payment under Section 31 (1) to such of the persons interested as were not present personally or by their representatives when the award was made, the officer shall require them to appear personally or by representatives by a certain date, to receive payment of the compensation awarded to them, intimating also that no interest will be allowed to them if they fail to appear. If they do not appear, and do not apply for a reference to the Civil Court under Section 18, the officer shall, after any further endeavour to secure their attendance that may seem desirable, cause the amounts due to be paid into the Treasury as revenue deposits payable to the persons to whom they are respectively due, and vouched for in the accompanying Form (marked *E). The officer shall also give notice to the payees of such deposits, specifying the Treasury in which the deposits have been made. When the payees ultimately claim payment of sums placed on deposit, the amount will be paid to them in the same manner as ordinary revenue deposits. The officer should, as far as possible, arrange to make the payments due in or near the village to which the payees belong, in order that the number of undisbursed sums to be placed in deposit on account of non-attendance may be reduced to a minimum. Whenever payment is claimed through a representative, whether before or after deposit of the amount awarded, such representative must show legal authority for receiving the compensation on behalf of his principal.

(8). In making direct payments to the persons interested under the award, the officer shall take the receipt of each person to whom money is paid on a separate voucher in the accompanying form (marked* C), containing a reference to the item showing the amount due to that person in the statement prescribed in paragraph 4. In cases where payments are made to a number of persons under a single award, an acquittance roll in Form CC* may be substituted for separate receipts in Form C. The officer shall forward the separate receipts of the payees or the acquittance roll, as the case may be, to the Examiner of Public Works Accounts with whom he is in account, when forwarding to him the account of the month in which the payments are made.

(9). All payments into Court for deposit under the Act should be made by means of cheques in

* Not printed.

favour of the presiding officer of the Court, payable by order of the Court to credit of Civil Court Deposits. The cheques should be accompanied with receipts, in triplicate, in Form* D duly filled up, of which one will be retained by the Court for record, and the other two returned duly signed to the Collector, who will keep one copy and forward the other to the Examiner of Public Works Accounts with the accounts of the month in which the payments are made. Payments of the amounts deposited shall be made under the rules for the payment of Civil Court Deposits.

(10). When a Court has awarded any compensation in excess of the officer's award, the further payment due, as entered in column 6 of the award statement in Form B, should be made into the Court by means of a cheque, and the procedure described in the preceding paragraph should be followed, Form D being used with the necessary changes to give full particulars of the order of the Court.

(11). A Local Government may authorize any particular Land Acquisition Officer to make all or any of his payments by cheques, provided no inconvenience is caused thereby to the payees inconsequence of the property being situated at a distance from the Treasury. The use of cheques should be safe-guarded by a strict observance of the following rules :—

(i) Every cheque-book should contain a certain number of cheques, with consecutive printed numbers, and each book should contain its own serial number.

(ii) The serial number of the cheque-book, and the number of cheques it contains, should be reported to the Treasury Officer before the book is brought into use.

(iii) The cheque-book should be kept under lock and key by the Land Acquisition Officer himself.

(iv) The cheques should be filled up by the Land Acquisition Officer, with his own hand, in words as well as figures, and cheques should be enfaced "under Rs. ."

(v) A periodical examination of pass-books from the Treasury with the counterfoils of the cheque-book should be made by the Land Acquisition Officer himself.

Payments under the Act after the Special Officer is relieved of his Special Duties.

(12). In any case in which a reference is made to the Civil Court, and the award of the Court is not made till after the special officer has been relieved of his special duties, the further payments due under the award shall be made by the Collector, who will observe the same procedure as if the reference to the Civil Court had been made by himself, as prescribed in paragraphs 9 and 10 above.

* Not printed.

Procedure of Collector or other Civil Officer not specially employed for Land Acquisition.

(13). When the land is taken up by the Collector or other Civil officer not specially employed for the work, such Collector or Civil officer is not a Public Works disburser, but draws money for payment due under his award from the Civil Treasury. Such Collector or Civil officer shall, as soon as he makes the award, or as soon as he ascertains that an award has been made by the Civil Court, prepare a statement in Form A or B or in both, as the case may be, showing the amounts due, and forward a copy thereof to the Examiner of Public Works Accounts concerned in the manner prescribed in paragraphs 4 and 5. Additions and alterations in the award statement should also be communicated to the Examiner as prescribed in paragraph 6, and a subsidiary statement in Form AA should, if necessary, be furnished as laid down in paragraph 4. The procedure laid down in paragraph 7 should also be observed by such Collector or Civil officer.

(14). In making the payments due under the award, the Collector shall take from each person to whom payment is made a receipt in Form C, containing a reference to the particular entry in the award showing the amount due to the payee. In the case of payments to a number of persons under a single award, an acquittance roll may be substituted for separate receipts as laid down in paragraph 8 These receipts will be the Treasury Officer's vouchers for the payments, and shall be forwarded by him with the accounts of the month to the Accountant General of the Province, who will in ordinary course forward them to the Examiner of Public Works Accounts. For payments into Civil Courts the procedure laid down in paragraphs 9 and 10 should be observed.

(15). The Treasury Officer has no concern with the award or with the award statement; he makes the payments on the authority of the Collector, or other officer assessing compensation. The Collector may either draw the amount to be disbursed to each payee separately, in which case he should countersign the receipt in Form C, and make it payable at the Treasury to the payee, altering the words "Paid in my presence $\frac{\text{in cash}}{\text{by cheque}}$" to "Pay"; or he may draw the total amount to be disbursed by him under the award on his own receipt as an advance, and after making the payments forward the receipts of the payees to the Treasury Officer in adjustment of the advance. In the former case, an advice list of the forms passed for payment should be sent to the Treasury Officer, who in turn should send weekly an advice of orders paid.

Audit by Account Officers.

(16). Whether the payment is made by a special officer or by the Collector (or other Civil officer), the audit of the Examiner of Public Works Accounts shall consist in seeing that every payment

is supported by a receipt in Form C or D, and that the amount paid on such receipt is the amount payable under the award, as shown in the statement of which he will have received copies under the preceding orders. The Examiner will also note in the last column of Form A the date on which possession is taken, as reported to him by the Executive Engineer or other officer.

(17). The Examiner will, as he receives the vouchers, fill in the entries in the appropriate columns of the award statements (Forms A and B); and as he receives the reports of possession, he will fill in the entries in column 10 of the statement in Form A: when all the vouchers showing either payment to the payee or payment into the Court on deposit and the reports of possession have been received, he will forward a copy of the completed statements in Forms A, AA, and B to the Chief Revenue Authority. This will complete the audit of the Examiner; any other or further returns or reports from the officers who assess or pay compensation will be disposed of by the Chief Revenue Authority without reference to the Examiner.

(18). When the land is acquired for and the cost is debitable to the Military Works Department, the procedure above laid down will be observed, the Examiner of Military Works Accounts being substituted for the Examiner of Public Works Accounts.

(19). When the land is acquired for and the cost is debitable to any other Department than the Public Works Department or Military Works Department, the procedure will also be the same, the Account officer who will audit the payments being substituted for the Examiner of Public Works Accounts.

Procedure when no money compensation is paid.

(20). In cases in which compensation is granted in the shape of other land in exchange, or remission of revenue, as provided in Section 31 (3) of the Act, and the land is acquired for Government purposes, no adjustment of the value of land given in exchange will be required, unless it is separately purchased by Government. If, however, the land is acquired for a body financially independent of Government, the value of the Government land given in exchange, and the capitalized value of the abatement of Land Revenue should be charged against advances of funds (paragraph 22) made by that body.

Investment of Compensation money deposited in Court.

(21). Investments under Sections 32 and 33 of the Act of money deposited in Court should be arranged for, in the case of purchase of Government securities, in communication between the Court and the Civil Accountant General concerned, and purchases of land should be effected under the

Court's orders through the Collector or other Revenue authority of the Province. The Accountant General will inform the Court what sum should be remitted to enable him to make the investment, and this amount will be paid from the deposits in Court.

Audit adjustment and recovery of payments on behalf of bodies financially independent of Government.

(22). In any case in which land is acquired for a Municipality or other body financially independent of Government, the Local Government may direct that the payments, instead of being made and audited in the same manner as the ordinary payments of such body, shall be made and audited as if the land were being acquired for Government. If the Local Government issues such an order, the Collector or other officer who makes payments on account of the land acquired shall draw funds from the Treasury and make payments in the manner laid down in these rules, using the forms prescribed, and shall render his accounts to the Civil Accountant General. The Municipality or other body will pay the estimated cost of the compensation to the credit of Government in advance on such dates and in such instalments as the Local Government may direct, further payment to Government being required as soon as the Accountant General reports that the payments made exceed the amount received in advance. The Accountant General will deal with the accounts and payments as prescribed in these rules, debiting the payments against the advances received from the Municipality or other body.

(G. I. F. C. Reso. No. 2209 A., dated 10th May 1895, as amended by No. 5498 A., dated 30th December 1895, No. 3469 A., dated 12th August 1896, 5253 A., dated 12th December 1896; G. Rs. No. 4320, dated 10th June 1895, No. 755, dated 24th January 1896, No. 6950, dated 4th September 1896, and No. 237, dated 12th January 1897.)

32. It has been notified in the *Bombay Government Gazette*, that the districts noted in the margin are districts in which it is customary for Government to make such provision for village sites as is referred to in Section 3 (*f*) of the Land Acquisition Act I of 1894. (G. Rs. and G. Ns. No. 4008, dated 19th May 1896, and No. 700, dated 27th January 1897.)

Northern Division.	*Central Division.*	*Southern Division.*
Ahmedabad, Kaira, Panch Mahals, Broach and Surat.	Poona, Ahmednagar, Sátára, Sholapur, Násik and Khándesh.	Kánara, Dhárwar, Kolába and Bijápur.

33. In submitting to Government proposals for the acquisition under Act I of 1894 of land required by the Public Works Department for public purposes the procedure to be adopted should be for the Executive Engineer to send original application,

&c., to the Collector through the Superintending Engineer. The Collector should then forward it to the Commissioner, who should send it on to Government in the Revenue Department through the Public Works Department. (G. R. No. 3862, dated 21st May 1897.)

34. It will generally be expedient to restore service inám land which has been acquired under the Land Acquisition Act and is no longer needed, but the arrangement will be tantamount to a re-grant of service land, and the sanction of Government is necessary. (G. R. No. 5372, dated 7th August 1897.)

35. It is not considered expedient to direct that notification under the Land Acquisition Act should invariably be issued with regard to land required for a public purpose, but the Act should be applied in all cases in which there is any probability of a question about title being raised. (G. R. No. 1571-Fam., dated 17th August 189.7)

36. Orders sanctioning the acquisition of land required for any Department of Government should be considered to be a sufficient authority for the payment of all ordinary charges incurred in connection with the acquisition. (G. R. No. 1800, dated 12th March 1898.)

PART II.—DUTIES, POWERS AND RESPONSIBILITIES OF OFFICERS.

1. Matters relating to the acquisition of land for public purposes should be disposed of by the Assistant in charge of the táluka, and not through the intermediate agency of Native officials. Personal examination of the ground and a prompt tender of a fair and liberal compensation would often effect a satisfactory settlement. (G. R. No. 158, dated 14th January 1867.)

2. It is the duty of the Collector and Magistrate, who is armed with ample power, to see that lands are not unauthorizedly entered upon by railway officials or any one else. (G. R. No. 1449, dated 28th March 1872.)

3. Under Section 2 of Act V of 1868, the Commissioner in Sind is vested with the powers of a Local Government under Act X* of 1870 (The Land Acquisition Act.) (G. I. No. 196, dated 25th April 1871); *vide* (G. R. No. 2187, dated 10th May 1871; *vide* also G. N. dated 3rd August 1874.)

*Repealed by Act I of 1894.

4. Government do not consider it desirable to fetter the hands of Revenue Officers, who may be deputed to take up lands for public purposes, by making it a rule that the Department requiring the land should be represented on the arbitration appointed to settle its value. The responsibility of preventing loss to Government must rest with Revenue Officers, who should, however, give the Department which has to pay for the land an opportunity of stating their opinion regarding its value. (G. R. No. 5052, dated 4th September 1875.)

5. Revenue Officers should be very careful that land is not taken up against the will of the owners except in conformity with the law. (G. R. No. 1976, dated 25th April 1872.)

6. Lands are not to be taken up by public officers except with the consent of the owners, otherwise than in accordance with law. Should this rule be neglected, it will be for Government to decide whether the costs of legal proceedings which may result from any illegal occupation of lands should be borne by Government or the officer by whose order the land was taken. (G. R. No. 1789, dated 24th March 1875.)

7. (1) It is assumed that, when an application for taking up land under the Land Acquisition Act is submitted by a Municipality or other local body, the necessity of the acquisition has been fully considered, the cost estimated, and due provision made for payment of the award. The officer deputed to acquire the land has a distinct duty to perform in accordance with the procedure prescribed in the Act. It is not open to him to proceed or not according to his discretion, or to delay or drop the matter according to the convenience of the local body, at whose cost the land is to be acquired.

If for any good and sufficient reason the necessity for the acquisition of the land should disappear after the issue of the notification, it is for Government alone to decide whether the acquisition should be completed or not.

(2). The Commissioners should see that notifications are not submitted hastily on behalf of local bodies, *i.e.*, not until they are satisfied

(*a*) that prior negotiations to purchase the land had failed, or that owing to difficulties as to title the application of the Act was necessary; and

(*b*) that the project, in connection with which the land was required, was sufficiently matured to justify the land being acquired, so that the project should be proceeded with without avoidable loss of time.

(G. R. No. 5835, dated 9th July 1894.)

8. Delays in the payment of compensation in respect of lands taken up for public purposes under the provisions of the Land Acquisition Act give rise to claims for interest on the amount of compensation payable under the award made by the officer acquiring the land from the date of taking possession of the land until the amount is actually paid, and swell the cost of the work in connection with which the land is taken up. This result is principally due to failure to comply with the provisions of Section 31 of the Land Acquisition Act. The attention of Collectors is therefore called to these provisions, and they should be requested to take measures to secure compliance with them in future. (G. R. No. 6677, dated 7th September 1897.)

PART III.—ACQUISITION OF LANDS FOR THE MILITARY DEPARTMENT.

1. When land is required by the Military Department, application should invariably be made through the Collector, who should submit for the orders of Government a report upon the nature of the land required, and the tenure on which it is held. (G. R. No. 3726, dated 17th October 1866.)

2. (1.) The Civil authorities should give every assistance in their power in obtaining for the Military authorities the preliminary necessary information as to probable cost, exact situation, &c., &c., of any land required by them for military purposes. A notice should then be prepared, signed and issued under the provisions of *Act VI of 1857; and the lands should be acquired for a public purpose in strict accordance with the terms of that Act. As a matter of course, the land should not be taken possession of until the Civil authorities declared that the provisions of the Act had been fulfilled. They should then formally hand it over to the authorities at whose requisition Government had ordered it to be taken up.

*Now Act I. of 1894.

(2). All land taken up under the Act must be acquired through the agency of the Civil Department.

(G. Rs. Nos. 1129, dated 26th February 1870, and 1289, dated 7th March 1870.)

PART IV.—ACQUISITION OF LANDS FOR MUNICIPALITIES.

1. The following form of agreement should be adopted whenever land is to be taken on behalf of Municipalities under the Land Acquisition Act. As the agreement is one made under Act X of 1870* within the meaning of Section 57† of that Act, it is not chargeable with stamp duty :—

*Now Act I of 1894.
†*Vide* Section 51 of Act I of 1894.

Agreement made this day of 18 between the Municipality of of the one part and the Secretary of State for India in Council of the other part.

Whereas the said Municipality is desirous of acquiring all that land situate in the village of in the Registration Sub-District of in the district of known by the name of (or being part of the known by the name of *as the case may be*) containing by superficial measurement more or less, which said land is now in the occupation of and is delineated in the Survey (*or* Government) map of as (part of) the field (*or* estate, *or* plot, *&c., as the case may be*) No. , and bounded on the north by on the south by on the east by and on the west by together with the trees, houses, and all other things whatsoever standing on the same, or attached to the same or permanently fastened to anything attached to the same, and has applied to Government to acquire the said land on its behalf under the provisions of the Land Acquisition Act,‡ 1870; and whereas Government have consented to acquire the said land under the said Act on behalf of the said Municipality on the said Municipality's agreeing in manner hereinafter appearing.

‡Now I of 1894.

These presents witness that the said Municipality doth hereby bind itself to pay to Government the cost of the acquisition of the said land and all such charges as may be incurred by Government, or by any officer of Government, in respect of the said acquisition at such time or times as the Collector of shall require, on the amount of the said cost or charges being certified by the said Collector, and doth agree that in the event of its making default in any such payment it shall be lawful for the Governor of Bombay in Council to recover the same as if it were money due to Government by the said Municipality under Section ninety-one of the Bombay District Municipal Act.

And the said Secretary of State for India in Council doth hereby agree with the said Municipality that so soon as all costs and charges of the said acquisition shall be paid by it, or recovered from it as aforesaid, the said land together with the trees, houses, and other things standing thereon, or attached thereto, or permanently fastened

to anything attached thereto, shall vest in the said Municipality and be thenceforth held by it for the purposes of the Bombay District Municipal Act like any other property vested in the said Municipality under section seventeen of the said Act, free of all claim or charge whatsoever on the part of Government.

In witness whereof *A. B.*, * Esquire of the said Municipality hath hereto set his hand and the seal of the Municipality of and *C. D.*, Esquire †, hath by order of the Governor of Bombay in Council hereunto set his hand on behalf of the Secretary of State for India in Council the day and the year first before written.

(Signed) (*A. B.*)
„ (*C. D.*)

Signed and sealed by *A. B.* in the presence of

Signed by *C. D.*, in the presence of

(G. R. No. 6707, dated 9th November 1877.)

2. It is neither usual nor necessary that agreements with Municipalities for the payment of the cost of acquisition of lands under the Act should be signed by a Secretary to Government. (G. R. No. 9487, dated 24th December 1883.)

3. In a case in which land is acquired under the Act for the Bombay Municipality by Government, the Solicitor to Government and not the Solicitors to the Municipality should represent Government and conduct the case. (G. R. No. 6575, dated 18th September 1890.)

4. (1) The following procedure adopted in municipal land cases in Bombay should be adopted *mutatis mutandis* by all Collectors in the Presidency proper and in Sind in land acquisition cases arising in their respective jurisdictions.

When the Collector has to acquire land for municipal purposes, the Municipality is asked to send a representative. In minor cases a departmental officer attends. All important cases are entrusted to the Municipal Solicitors. On the day for hearing the Municipal Solicitor attends, and in important cases the land-owner is represented by a lawyer. The Municipal Solicitor states the rate the Municipality is willing to pay and every opportunity is given him to support the sufficiency of the municipal rate by sales and other evidence. The land-owners name their figure and bring evidence in its support. In all

* The officer who may be empowered by the Municipal Rules to enter into contracts on behalf of the Municipality. (See Bombay Act VI of 1873, Section 13, Clause I).

† Any officer empowered by the Government of India's Rules to execute contracts on behalf of the Secretary of State.

important acquisitions, repeated adjournments are granted, and every opportunity is given to both parties to produce all available evidence. The evidence produced both by the Municipality and by the land-owner is of necessity one-sided: each party confines itself to details which tend in its own favour. In the bulk of cases the most helpful evidence is that of sales and awards from the Collector's records.

(2). As regards proceedings before the Court, there is no advantage in the Municipal Solicitors attending to uphold the Collector's award in preference to the Government Solicitor appearing for that purpose. But in a case where a Municipality is interested, the Solicitor to Government should confer with the Municipal Solicitors, in order to place the municipal case against an increase before the Court.

(G. R. No. 6503, dated 22nd September 1891.)

PART V.—ACQUISITION OF LANDS FOR RAILWAYS.

1. Whenever Collectors have occasion to submit requisitions for lands required for railway purposes they should forward the schedule and plans sent to them by the Railway Department. (G. L. No. 1615, dated 19th April 1865.)

2. Lands required for the re-construction of a railway or for repairs fall under the same rules as those required during the original construction of the line. (G. R. No. 2650, dated 9th May 1873.)

3. The rent for class C lands required for railway purposes should be calculated on the capitalized value of the land instead of according to the assessment arbitrarily placed on such land. The following form should be adopted in preferring bills for the rent of such lands in the possession of Railway Companies; and the bills should be forwarded direct to the agent of the Railway Company concerned for payment :—

. . . . . RAILWAY COMPANY.....

To . . . . . .

Amount of rent on the following land held by the Company under Class "C" in the Táluka of the

No.	Name of Village.	Number of Land Plan.	Survey Nos.	Area of Land.			Whether Government waste or occupied or alienated when originally acquired.	Amount on which rent is charged.		Rate at which rent is charged.	Authority.	Amount	
				Acres.	Gunthas	Annas.		Value of Land.	Compensation.			Assessment.	Rent.

(G. Rs. Nos. 4957, dated 30th August 1876, and 6315, dated 4th August 1892.)

4. When forest lands have to be given free of the rent for railway purposes, the claim of the Forest Department to compensation is inadmissible, but when rent has been paid for forest lands made over to Railways, the Forest Department should be credited with the amount so realized. (G. R. No. 6586, dated 24th September 1891.)

5. The practice of exchanging receipts between the Revenue and the Railway authorities when land is made over to the latter should be continued. (G. R. No. 6702, dated 20th August 1892.)

6. (1) In supersession of all previous orders on the subject, the subjoined rules should be strictly observed in future on all railways in India, whether constructed by the State, or by companies (guaranteed, assisted or private), for which land is acquired under the orders of Government.

(2). It will be incumbent on Consulting Engineers to endeavour to avoid the emplacement of the railway line upon land, the acquisition of which will entail either unnecessary expenditure on Government, or annoyance to the owners, if the object sought can be equally well attained by a slight alteration of the alignment, or in some other manner. The Consulting Engineers and the local revenue officers are responsible that, in taking up land, the fullest consideration is given both to the convenience of the proprietors and to the interests of Government.

Rules relating to Land.

Classification of Railway Land—

I.—Railways constructed by Government.

(1). On Railways constructed by Government land is divided into two classes, *viz.* :—

I.—Permanent Land.

II.—Temporary Land.

(2). *Permanent Land.*—Land which will be required permanently after the Railway is open for traffic and the work of construction is complete. Under this head will be included all land to be occupied by the formation of the permanent line of Railway, with side-slopes of banks and cuttings, and the berms connected therewith; the entrances to tunnels and shafts belonging to the same; the sites of bridges and protection or training works; station-yards; landing places for Railway ferries; ground to be occupied by works belonging to the Railway, such as gas-works, arrangements for water-supply, &c.; ground for the storage, manufacture, or acquisition of materials; land for cemeteries, plantations, gardens, and recreation grounds; sites for permanent stations, offices, workshops, dwelling-houses and other buildings required for the purposes of the Railway, or the accommodation of the staff